

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of DEREK DWAYNE WIGGINS,  
JERRY JEROME ELLIS, OCTAVIUS ODELL  
ELLIS, and DESHONTE LAVEL THOMAS,  
Minors.

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FAMILY INDEPENDENCE AGENCY,  
  
Petitioner-Appellant,

UNPUBLISHED  
April 28, 2005

v

LARITA THOMAS, a/k/a LAREDA MICHELLE  
THOMAS,

No. 258144  
Wayne Circuit Court  
Family Division  
LC No. 97-356074

Respondent-Appellee.

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Before: Griffin, P.J., and Bandstra and Hoekstra, JJ.

PER CURIAM.

Petitioner appeals by leave granted a trial court order denying the referee's recommendation to terminate respondent's parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Termination of parental rights is mandatory if the trial court finds that the petitioner established a statutory ground for termination, unless the court finds that termination is clearly not in the child's best interest. *In re Trejo*, 462 Mich 341, 344; 612 NW2d 407 (2000). This Court reviews decisions terminating parental rights for clear error. Clear error has been defined as a decision that strikes this Court as more than just maybe or probably wrong. *Id.* at 357. Additionally, the trial court's findings of fact may not be set aside unless they are clearly erroneous, and this Court shall give regard to the trial court's special opportunity to judge the credibility of witnesses who appeared before it. MCR 2.613(B).

Pursuant to MCR 3.991(E), a trial court must adopt a referee's recommendation, unless: (1) the trial court would have reached a different result had it heard the case, or (2) the referee committed a clear error of law that likely would have affected the outcome or cannot otherwise be considered harmless. In this case, the trial court found that it would have reached a different result had it heard the case because, although there was evidence in support of termination, there was not clear and convincing evidence to establish the statutory grounds for termination. MCL 712A.19b(3).

Petitioner argues that MCR 3.991(E) requires the trial court to review the case history before making its decision and that the trial court erred in making its decision without reviewing the seven-year case history.<sup>1</sup> It is not clear what the trial court reviewed in making its decision. However, no language within MCR 3.991(E) requires that a court reviewing a referee's recommendation examine the full trial record. Furthermore, even assuming that the trial court erred in this respect, based on the existing record, petitioner suffered no prejudice because the referee's report appears to accurately reflect the case history.

Affirmed.

/s/ Richard Allen Griffin  
/s/ Joel P. Hoekstra

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<sup>1</sup> Our review is hampered by the failure of petitioner-appellant to provide this Court with transcripts of the hearings that predate October 31, 2002.